

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

VINH NGUYEN, INDIVIDUALLY  
AND ON BEHALF OF ALL OTHERS  
SIMILARLY SITUATED,

Plaintiff,

v.

RADIENT PHARMACEUTICALS  
CORPORATION AND DOUGLAS C.  
MACLELLAN,

Defendants.

CASE No.:CV-11-0406-DOC  
(MLGx)

CLASS ACTION

**[PROPOSED] ORDER  
PRELIMINARILY APPROVING  
SETTLEMENT AND PROVIDING  
FOR NOTICE**

1 WHEREAS, (i) Lead Plaintiffs Reydel Quintana and Dat Tan Tran  
2 ("Lead Plaintiffs"), on behalf of themselves and the putative Class, and (ii)  
3 Radiant Pharmaceuticals Corporation ("Radiant"), and Douglas C. MacLellan  
4 ("MacLellan") (collectively, the "Radiant Defendants") have entered, by and  
5 through their respective counsel, into a settlement of the claims asserted in the  
6 Litigation, the terms of which are set forth in a Stipulation and Agreement of  
7 Settlement, dated December 16, 2013 (the "Stipulation"), which is subject to  
8 review under Rule 23 of the Federal Rules of Civil Procedure and which,  
9 together with the exhibits thereto, sets forth the terms and conditions for the  
10 proposed settlement of the claims alleged in the Amended Complaint (the  
11 "Complaint") filed in the Litigation; and the Court having read and considered  
12 the Stipulation, the proposed "Notice of Pendency and Proposed Settlement of  
13 Class Action" ("Notice"), the proposed "Summary Notice of Pendency and  
14 Proposed Class Action Settlement" ("Summary Notice"), the proposed Plan of  
15 Allocation of the Net Settlement Fund among Class Members, the proposed  
16 form of the Proof of Claim and Release ("Proof of Claim"), the proposed form of  
17 Order and Final Judgment, and submissions made relating thereto, and finding  
18 that substantial and sufficient grounds exist for entering this Order;

19 NOW, THEREFORE, IT IS HEREBY ORDERED, this \_\_\_\_ day of  
20 \_\_\_\_\_, 201\_, that:

21 1. Capitalized terms used herein have the meanings defined in the  
22 Stipulation.

23 2. Pursuant to the Court's Order dated November 26, 2012, this  
24 Litigation was certified as a class action on behalf of all persons who purchased  
25 the publicly traded common stock of Radiant from January 18, 2011 through  
26 March 4, 2011, and who were damaged thereby (the "Class"). Excluded from the  
27 Class are the Radiant Defendants, the present and former officers and directors  
28

1 of Radiant and any subsidiary thereof, members of their immediate families and  
2 their legal representatives, heirs, successors or assigns and any entity in which  
3 Defendants have or had a controlling interest.

4 3. A hearing (the "Final Settlement Hearing") pursuant to Federal Rule  
5 of Civil Procedure 23(e) is hereby scheduled to be held before the Court on  
6 \_\_\_\_\_ 20\_\_ at \_\_\_\_\_ .m. for the following purposes:

7 a. to finally determine whether the Litigation satisfies the  
8 applicable prerequisites for class action treatment under Federal Rules of  
9 Civil Procedure 23(a) and (b);

10 b. to finally determine whether the Settlement is fair,  
11 reasonable, and adequate, and should be approved by the Court;

12 c. to finally determine whether the Order and Final Judgment as  
13 provided under the Stipulation should be entered, dismissing the  
14 Complaint on the merits and with prejudice, and to determine whether the  
15 release by the Class of the Released Parties as set forth in the Stipulation,  
16 should be ordered, along with a permanent injunction barring efforts to  
17 bring any claims extinguished by the release;

18 d. to finally determine whether the proposed Plan of Allocation  
19 for the distribution of the Net Settlement Fund is fair and reasonable and  
20 should be approved by the Court;

21 e. to consider the application of Lead Plaintiffs' Counsel for an  
22 award of Attorneys' Fees and Expenses;

23 f. to consider any Class Members' objections to the Settlement,  
24 whether submitted previously in writing or presented orally at the Final  
25 Settlement Hearing by Class Members (or by counsel on their behalf); and

26 g. to rule upon such other matters as the Court may deem  
27 appropriate.

1           4.     The Court reserves the right to adjourn the Final Settlement Hearing  
2 to a later date and to approve the Settlement with or without modification and  
3 with or without further notice of any kind. The Court further reserves the right  
4 to enter its Order and Final Judgment approving the Settlement and dismissing  
5 the Complaint, on the merits and with prejudice, regardless of whether it has  
6 approved the Plan of Allocation or awarded Attorneys' Fees and Expenses.

7           5.     The Court reserves the right to approve the Settlement with such  
8 modifications as may be agreed upon or consented to by the Settling Parties and  
9 without further notice to the Class where to do so would not impair Class  
10 Members' rights in a manner inconsistent with Rule 23 and due process of law.

11           6.     The Court approves the form, substance and requirements of (a) the  
12 Notice, (b) the Summary Notice and (c) the Proof of Claim, all of which are  
13 exhibits to the Stipulation.

14           7.     Lead Plaintiffs' Counsel has the authority to enter into the  
15 Stipulation on behalf of the Class and is authorized to act on behalf of the Class  
16 Members with respect to all acts or consents required by or that may be given  
17 pursuant to the Stipulation or such other acts that are reasonably necessary to  
18 consummate the Settlement.

19           8.     Strategic Claims Services is appointed and approved as the Claims  
20 Administrator for the Settlement.

21           9.     Lead Plaintiffs' Counsel, through the Claims Administrator, shall  
22 cause the Notice and the Proof of Claim, substantially in the forms annexed  
23 hereto, to be mailed, by first class mail, postage prepaid, within twenty-eight  
24 (28) calendar days of the entry of this Order, to all Class Members who can be  
25 identified with reasonable effort by the Claims Administrator.

26           10.    Lead Plaintiffs' Counsel are authorized to establish a Notice and  
27 Administration Account (as defined in the Stipulation) of \$100,000 (One  
28

1 Hundred Thousand Dollars), to be used for reasonable out-of-pocket costs in  
2 connection with providing notice of the Settlement to the Class and for other  
3 reasonable out-of-pocket administrative expenses. After the Effective Date,  
4 additional amounts may be transferred from the Settlement Fund to the Notice  
5 and Administration Account.

6 11. Defendants and any and all issuers, securities firms or transfer  
7 agents holding transfer records which indicate the legal owners of Radient  
8 common stock currently or during the Class Period are hereby ordered to  
9 produce such transfer records in a usable electronic format to Lead Plaintiffs'  
10 Counsel or the Claims Administrator within fourteen (14) calendar days of  
11 receipt of a copy of this Order.

12 12. Lead Plaintiffs' Counsel, through the Claims Administrator, shall  
13 also make all reasonable efforts to give notice to nominee owners such as  
14 brokerage firms and other persons or entities who purchased Radient common  
15 stock during the Class Period. Such nominee purchasers are directed to forward  
16 copies of the Notice and Proof of Claim to their beneficial owners or to provide  
17 the Claims Administrator with lists of the names and addresses of the beneficial  
18 owners and the Claims Administrator is ordered to send the Notice and Proof of  
19 Claim promptly to such beneficial owners. Additional copies of the Notice shall  
20 be made available to any record holder requesting same for the purpose of  
21 distribution to beneficial owners, and such record holders shall be reimbursed  
22 from the Settlement Fund, upon receipt by the Claims Administrator of proper  
23 documentation, for the reasonable expense of sending the Notice and Proof of  
24 Claim to beneficial owners.

25 13. Lead Plaintiffs' Counsel shall, at or before the Final Settlement  
26 Hearing, serve upon Defendants' Counsel, and file with the Court, proof of  
27  
28

1 mailing of the Notice and Proof of Claim, both to Class Members and to  
2 nominees.

3 14. Lead Plaintiffs' Counsel, through the Claims Administrator, shall  
4 cause the Summary Notice to be published electronically once on the  
5 *GlobeNewswire* and in print once in the *Investor's Business Daily* within ten (10)  
6 calendar days after the entry of this Order. Lead Plaintiffs' Counsel shall, at or  
7 before the Final Settlement Hearing, serve upon Defendants' Counsel and file  
8 with the Court proof of publication of the Summary Notice.

9 15. The forms and methods set forth herein of notifying the Class of the  
10 Settlement and its terms and conditions meet the requirements of due process  
11 and Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7) of the  
12 Exchange Act, 15 U.S.C. 78u-4(a)(7), as amended by the Private Securities  
13 Litigation Reform Act of 1995; constitute the best notice practicable under the  
14 circumstances; and constitute due and sufficient notice to all persons and entities  
15 entitled thereto. No Class Member will be relieved from the terms of the  
16 Settlement, including the releases provided for therein, based upon the  
17 contention or proof that such Class Member failed to receive actual or adequate  
18 notice.

19 16. In order to be entitled to participate in recovery from the Net  
20 Settlement Fund after the Effective Date, each Class Member shall take the  
21 following action and be subject to the following conditions:

22 a. A properly completed and executed Proof of Claim must be  
23 submitted to the Claims Administrator, at the Post Office Box indicated in  
24 the Notice, postmarked not later than seventy-five (75) calendar days from  
25 the date of this Order. Such deadline may be further extended by Order of  
26 the Court. Each Proof of Claim shall be deemed to have been submitted  
27 when legibly postmarked (if properly addressed and mailed by first-class  
28

1 mail) provided such Proof of Claim is actually received before the filing  
2 of a motion for an Order of the Court approving distribution of the Net  
3 Settlement Fund. Any Proof of Claim submitted in any other manner shall  
4 be deemed to have been submitted when it was actually received by the  
5 Administrator at the address designated in the Notice.

6 b. The Proof of Claim submitted by each Class Member must  
7 satisfy the following conditions: (i) it must be properly filled out, signed  
8 and submitted in a timely manner in accordance with the provisions of the  
9 preceding subparagraph; (ii) it must be accompanied by adequate  
10 supporting documentation for the transactions reported therein, in the  
11 form of broker confirmation slips, broker account statements, an  
12 authorized statement from the broker containing the transactional  
13 information found in a broker confirmation slip, or such other  
14 documentation as is deemed adequate by the Claims Administrator or  
15 Lead Plaintiffs' Counsel; (iii) if the person executing the Proof of Claim  
16 is acting in a representative capacity, a certification of his current  
17 authority to act on behalf of the Class Member must be provided with the  
18 Proof of Claim; and (iv) the Proof of Claim must be complete and contain  
19 no material deletions or modifications of any of the printed matter  
20 contained therein and must be signed under penalty of perjury.

21 c. Once the Claims Administrator has considered a timely-  
22 submitted Proof of Claim, it shall determine whether such claim is valid,  
23 deficient or rejected. For each claim determined to be either deficient or  
24 rejected, the Claims Administrator shall send a deficiency letter or  
25 rejection letter as appropriate, describing the basis on which the claim was  
26 so determined. Persons who timely submit a Proof of Claim that is  
27 deficient or otherwise rejected shall be afforded a reasonable time (at least  
28

seven (7) calendar days) to cure such deficiency if it shall appear that such deficiency may be cured.

d. For the filing of and all determinations concerning their Proof of Claim, each Class Member shall submit to the jurisdiction of the Court.

17. All Class Members who do not submit valid and timely Proofs of Claim will be forever barred from receiving any payments from the Net Settlement Fund, but will in all other respects be subject to and bound by the provisions of the Stipulation and the Order and Final Judgment, if entered.

18. Class Members shall be bound by all determinations and judgments in the Litigation, whether favorable or unfavorable, unless such persons request exclusion from the Class in a timely and proper manner, as hereinafter provided. A Class Member wishing to make such request shall mail it, in written form, by first class mail, postage prepaid, or otherwise deliver it, so that it is received no later than thirty (30) calendar days prior to the Final Settlement Hearing or \_\_\_\_\_20\_\_\_\_, to the addresses listed in the Notice. Such request for exclusion shall clearly indicate the name and address and phone number and e-mail contact information (if any) of the person seeking exclusion, state that the sender specifically requests to be excluded from the Class, and must be signed by such person. Such persons requesting exclusion are also required to specify all their purchases and sales of Radiant common stock during the Class Period, including the date, number of shares and price of the shares purchased or sold. The request for exclusion shall not be effective unless it provides the required information, is legible, and is made within the time stated above, or the exclusion is otherwise accepted by the Court. Lead Plaintiffs' Counsel may contact any person or entity filing a request for exclusion, or their attorney if one is designated, to discuss the exclusion.



1           19. Class Members requesting exclusion from the Class shall not be  
2 entitled to receive any payment out of the Net Settlement Fund.

3           20. The Court will consider comments and/or objections to the  
4 Settlement, the Plan of Allocation, or the application for Attorneys' Fees and  
5 Expenses and any payment to Lead Plaintiff, only if such comments or  
6 objections and any supporting papers are served to be received at least twenty  
7 (20) calendar days prior to the Final Settlement Hearing, upon each of the  
8 following:

9           **CLASS COUNSEL:**

10 Laurence M. Rosen, Esq.  
11 Phillip Kim, Esq.  
12 THE ROSEN LAW FIRM, P.A.  
13 275 Madison Avenue, 34<sup>th</sup> Floor  
14 New York, New York 10016  
15 Tel.: 212-686-1060  
16 Fax: 212-202-3827

17           **COUNSEL FOR DEFENDANT RADIANT PHARMACEUTICALS**  
18           **CORPORATION**

19 Robert Weber, Esq.  
20 DLA PIPER (US) LLP  
21 2000 Avenue of the Stars  
22 Suite 400, North Tower  
23 Los Angeles, California, 90067  
24 Tel: 310-595-3000  
25 Fax: 310-595-3300  
26  
27  
28

**COUNSEL FOR DEFENDANT DOUGLAS MACLELLAN**

Mark David Hunter, Esq.  
HUNTER TAUBMAN WEISS LLP  
255 University Drive  
Coral Gables, Florida 33134  
Tel: 305-629-8816  
Fax: 305-629-8877

and the objector has (by that same date) filed said objections, papers and briefs, showing due proof of service upon counsel identified above, with the Clerk of the Court, U.S. District Court, Central District of California, 411 West Fourth Street, Santa Ana, California 92701. Attendance at the Final Settlement Hearing is not necessary but persons wishing to be heard orally in opposition to the Settlement, the Plan of Allocation, and/or the application for Attorneys' Fees and Expenses are required to indicate in their written objection (or in a separate writing that is submitted in accordance with the deadline and after instruction pertinent to the submission of a written objection) that they intend to appear at the Final Settlement Hearing and identify any witnesses they may call to testify or exhibits they intend to introduce into evidence at the Final Settlement Hearing. Class Members do not need to appear at the Final Settlement Hearing or take any other action to indicate their approval.

21. Any Class Member who does not object in the manner prescribed above shall be deemed to have waived all such objections and shall forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the Settlement, the Order and Final Judgment to be entered approving the Settlement, the Plan of Allocation, or the application for an award of Attorneys' Fees and Expenses and a payment to Lead Plaintiffs.

22. The Court reserves the right to adjourn the Final Settlement Hearing or any adjournment thereof without any further notice other than entry of an

1 Order on the Court's docket, and to approve the Settlement without further notice  
2 to the Class.

3 23. All papers in support of the Settlement, the Plan of Allocation and  
4 any application for Attorneys' Fees or Expenses or a payment to Lead Plaintiffs  
5 shall be filed and served **thirty (30)** calendar days before the Final Settlement  
6 Hearing.

7 24. Any submissions filed in response to any objections or in further  
8 support of the Settlement, the Plan of Allocation and any application for  
9 Attorneys' Fees or Expenses or a payment to Lead Plaintiffs shall be filed no  
10 later than **fourteen (14)** calendar days prior to the Final Settlement Hearing.

11 25. Pending final determination of whether the Settlement should be  
12 approved, all Class Members, and each of them, and anyone acting or purporting  
13 to act for any of them, shall be enjoined from prosecuting, attempting to  
14 prosecute, or assisting others in the prosecution of, any Settled Claims. In  
15 addition, the Litigation is stayed.

16 26. In the event the Settlement is not consummated pursuant to its  
17 terms, the Stipulation, except as otherwise provided therein, including any  
18 amendment(s) thereto, and this Order, shall be null and void, of no further force  
19 or effect, and without prejudice to any Settling Party, and may not be introduced  
20 as evidence or referred to in any action or proceedings by any person or entity,  
21 and each party shall be restored to his, her or its respective position as it existed  
22 before the execution of the Stipulation, pursuant to the terms of the Stipulation.

23 27. The Court retains exclusive jurisdiction over the action to consider  
24 all further matters arising out of, or relating to, the Settlement, including by way  
25 of illustration and not limitation, any dispute concerning any Proof of Claim  
26 filed by any Class Member and any future requests by one or more of the Parties  
27  
28

1 that the Final Order and Judgment, the Release and/or the permanent injunction  
2 set forth in the Stipulation be enforced.

3 Dated: \_\_\_\_\_, 201\_

4 \_\_\_\_\_  
5 HON. DAVID O. CARTER  
6 UNITED STATES DISTRICT JUDGE  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28